IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7581 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DANTIWADA TALUKA SAHAKARI KHARID VECHAN SANGH LTD.

Versus

ASSISTANT DISTRICT REGISTRAR COOP. SOCIETIES

Appearance:

1. Special Civil Application No. 7581 of 2004

MR PK JANI for Petitioner No. 1

MR HD DAVE, ASST. GOVT. PLEADER for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 09/07/2004

ORAL JUDGEMENT

1. Rule. Mr. H.D. Dave, learned Assistant Government Pleader is directed to appear on behalf of the respondent, and he waives service of rule. With the consent of parties, the matter is taken up for final hearing.

2. The only question which arises for consideration of this Court is the legality and validity of the order dated 11.3.2004 passed by Assistant District Registrar, Co-Operative Societies [Annexure 'G'].

3. Upon hearing Mr. Jani, learned counsel for the petitioners and Mr. Dave, learned Assistant Government Pleader and on perusal of the order passed by the Assistant District Registrar, it appears that the Assistant District Registrar declined to consider the proposal on the ground of pendency of Spl. C.A. No. 1817 of 2002 and the interim stay granted by this Court in that matter. Today, Spl. C.A. No. 1817 of 2002 has been withdrawn, rule is discharged and interim relief is vacated by this Court in that matter. Under the above circumstances, the ground upon which the proposal is declined by the Assistant District Registrar to consider the matter for amendment of the bye-laws no longer survives.

3. As a consequence of the above, the Assistant District Registrar will have to consider the matter for granting sanction or otherwise for amendment of the bye-laws in accordance with the provisions of the Gujarat Co-Operative Societies Act and the Rules.

4. Since the proposal at the earlier point of time was not considered on merits, it is not necessary for this Court at this stage to examine the aspect as to whether the such an amendment can be granted or not by the District Registrar as per the provisions of the Act. Suffice it to say that it will be open to the Assistant District Registrar to decide the proposal in accordance with law.

5. In view of the above, the petitioner will be at liberty to re-submit a proposal for amendment of the bye-laws once again, and if such a proposal is made, the same shall be considered by the Assistant District Registrar in accordance with law and appropriate orders shall be passed as early as possible, preferably within a period of three months from the receipt of such proposal and the order of this Court.

6. This petition stands disposed of in accordance with the above directions. Rule is made partly absolute. No order as to costs. Direct service is permitted.

[JAYANT PATEL, J.]
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